



## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:  
**Paul A. Kline**

Confirmation No.: **5414**

Application No.: **09/835,532**

Group Art Unit: **2636**

Filing Date: **April 16, 2001**

Examiner: **Van Trieu**

For: **A POWER LINE COMMUNICATION SYSTEM AND METHOD OF USING  
THE SAME**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

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**SEP 29 2004**

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**DECLARATION PURSUANT TO 37 C.F.R. 1.131**

I, Paul A. Kline, declare and say that:

1. I am the sole named inventor of the above-identified patent application.
2. I am familiar with the above-identified patent application and the claims now pending before the U.S. patent office.
3. It is my understanding that the above application claims priority to my earlier filed application, which is U.S. Appl. No. 60/197,615, filed on April 14, 2000.
4. I understand that U.S. Patent No. 6,452,482 ("Cern") has been cited against all the pending claims in the above-identified application, which are claims 10-14, 16-21, 23-36 and 38-64.
5. I understand that the Cern reference was filed on December 28, 2000 and claims priority to two provisional applications. Specifically, I understand that the Cern patent claims priority to U.S. Provisional Appl. No. 60/173,808, which was

filed on December 30, 1999 and to U.S. Provisional Appl. No. 60/198,671, which was filed on April 20, 2000.

6. I conceived of the invention as claimed in the above-identified application prior to December 30, 1999. Evidence of my conception can be found in my invention disclosure document, which is attached as Exhibit A.

7. My invention disclosure document demonstrates that I had conceived all of the claimed elements prior to December 30, 1999. Specifically, the invention disclosure document describes the components of transformer bypass device, the components of the aggregation point, the interaction of the PLBs with an AP and the electrical distribution system.

8. In addition, I diligently pursued the reduction to practice of my invention from prior to December 30, 1999 until April 14, 2000, the filing date of the provisional application (U.S. Appl. No. 60/197,615) to which the above-identified application claims priority.

9. From prior to December 30, 1999 until April 14, 2000, I diligently pursued construction of a prototype suitable for use on an electrical distribution system carrying medium voltages (*e.g.*, 8,000 volts). This process included developing hardware, and selecting the appropriate power line modem. In addition, I built a prototype of my invention comprising a first and second modem and tested the prototype in a lab prior to December 30, 1999.

10. Some embodiments of my invention are used with medium voltage power lines. Consequently, in addition to constructing a prototype, I needed to get the approval of an electric utility company in order to place a prototype of my

invention on the power lines. Obtaining such approval is a slow process due to the serious safety concerns of installing prototype equipment on medium voltage power lines. In addition, the electric utility companies frequently are slow bureaucratic organizations. Furthermore, the electric utility companies often require the execution of confidentiality agreements, which may require negotiations, before having meaningful discussion.

11. From prior to December 30, 1999 until April 14, 2000, I contacted numerous electric utility companies and participated in numerous meetings to discuss testing of a complete prototype of my invention.

12. A prototype of my invention was eventually installed on a utility company's electrical distribution system and today a commercial version of my invention is installed there.

13. In addition, from prior to December 30, 1999 until April 14, 2000 I diligently pursued patent protection of my invention. Specifically, during that time period I prepared materials to provide my patent attorney and commissioned my patent attorney to prepare a patent application for filing at the U.S. Patent & Trademark Office to protect my invention. After preparation of the patent application by my attorney, I reviewed the application and provided comments to my attorney relating to the application. After reviewing and providing comments to my attorney relating to the patent application, I instructed my attorney to file the patent application with the U.S. Patent & Trademark Office. My attorney filed the application on April 14, 2000. The application was given serial number

60/197,615 and is the application to which the above referenced application claims priority.

14. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information or belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or by imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful statements may jeopardize the validity of the application, any patent issuing there upon, or any patent to which this verified statement is directed.

Date: 9-26-04

  
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Paul A. Kline